

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JEREMY ALAN KING, M.D.,

Physician's & Surgeon's Certificate
No. A76036

Respondent.

Case No. 800-2013-000491

OAH No. 2016110022

STIPULATED DECISION AFTER NON-ADOPTION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on March 2, 2017, in Oakland, California.

Machaela M. Mingardi, Deputy Attorney General, represented Kimberly Kirchmeyer, Executive Director, Medical Board of California.

Stephen M. Boreman, Attorney at Law, represented Respondent Jeremy Alan King, M.D., who was present.

The record closed on March 2, 2017, and the Proposed Decision was issued on March 28, 2017. Panel A of the Medical Board of California issued a Notice of Non-Adoption of Proposed Decision on May 4, 2017.

On June 15, 2017, the parties entered into a stipulation to waive oral and written argument on the matter, provided Panel A agreed to limit the modification of the decision to adding the term to require a third-party chaperone for female patients (Optional Condition 25 from the Manual of Model Disciplinary Orders and Disciplinary Guidelines). The Panel so agreed, and hereby adopts this Stipulated Decision After Non-Adoption.

FACTUAL FINDINGS

1. Complainant Kimberly Kirchmeyer filed the Accusation in her official capacity as Executive Director of the Medical Board of California (Board).

2. On August 1, 2001, the Board issued Physician's and Surgeon's Certificate No. A76036 to Jeremy Alan King, M.D. (Respondent). Respondent's certificate will expire on December 31, 2018, unless renewed.

3. The standard of proof applied to determine the factual findings is clear and convincing evidence.

4. In 1999, Respondent received his medical degree from the Saint Louis University School of Medicine. In 2003 he completed an internship and residency in obstetrics and gynecology at David Grant Medical Center, Travis Air Force Base. In 2006 Respondent completed a postdoctoral fellowship in reproductive endocrinology and infertility at Johns Hopkins Medical Institution, Baltimore, Maryland.

From 2006 until 2013, Respondent was the Director of In Vitro Fertilization at San Antonio Military Medical Center, Fort Sam Houston, Texas. From 2013 to 2016, Respondent served as the Administrative Officer for the Chief of Medical Staff at Wilford Hall Medical Center, San Antonio, Texas.

Respondent is a specialist in reproductive endocrinology and infertility. He served in the Air Force for over 16 years and resigned in 2015.

Prior discipline

5. Effective April 28, 2006, the Board issued a Decision and Order publicly reprimanding Respondent's certificate. The Order was based on a stipulation wherein Respondent admitted cause for discipline based upon discipline issued by the Department of the Air Force. On December 22, 2004, the Air Force issued a Record of Non-judicial Punishment Proceedings under Article 15 of the Uniform Code of Military Justice (UCMJ) severely reprimanding Respondent. The Record states that Respondent "at or near Travis Air Force Base, California, between on or about 1 January 2003 and on or about 31 March 2003, willfully and wrongfully [had] inappropriate sexual contact with Mrs. [D.B.], who was [Respondent's] patient, which conduct was unbecoming an officer and a gentleman." The Order also states:

In mitigation, Respondent is a well-trained and knowledgeable physician with no history of discipline. He acknowledges that [his] conduct . . . was unprofessional and that he exercised poor judgment. Respondent has accepted full responsibility for the conduct which led to the disciplinary action of the Department of the Air Force. He has undergone counseling and has taken steps in his professional practice to assure the maintenance of professional boundaries.

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Recent Air Force/Army discipline

6. On December 4, 2012, Respondent voluntarily relinquished his privileges at the San Antonio Military Medical Center. He enrolled in The Meadows, a residential treatment center in Arizona, and underwent treatment centered on professional boundary issues. Sometime in May or June 2013, Respondent applied for the reinstatement of his privileges.

7. The Brooke Army Medical Center (BAMC) Medical Executive Staff Committee (MSEC) convened several meetings beginning in June 2013 during which Respondent's application was discussed at length. In evidence are meeting minutes that contain extensive notes taken at the meetings that are heavily redacted, somewhat difficult to follow, and contain references to military discipline procedures for which no explanation was provided. Nonetheless, the following information was obtained from the records provided.

8. On July 11, 2013, the MSEC discussed its options and voted unanimously to restore General Medical Officer (GMO) privileges to Respondent with restrictions. The MSEC felt that it was too early to allow Respondent to return to practice in gynecology. But this decision was short-lived. On July 17, 2013, the MSEC voted nine to five to deny restoration of any privileges.

9. On September 4, 2013, another MSEC meeting was convened. A colonel advised that the MSEC had been "assembled to consider documentary evidence and witness testimony relating to" whether Respondent's request for GMO privileges would "be reconsidered for approval." There is no indication that the speakers testified under oath. The speakers were identified as physicians and psychiatrists, but their names are redacted. The meeting minutes are 27 pages long and contain summaries of what was said and discussed. It is noted that the members have been provided a hearing packet that contains the documentary evidence, but no descriptions of its contents. The physicians who spoke recommended return to practice and opined that Respondent did not pose a measureable risk to patients. Nonetheless, the MSEC voted 14 to 5 to uphold the previous denial.

10. On February 23, 2015, the Air Force issued a second Record of Non-judicial Punishment Proceedings against Respondent. The Record states that on July 24, 2011, Respondent "unlawfully slap[p]ed Staff Sergeant EN on the buttocks with [his] hand." Also, between December 1, 2009, and November 30, 2012, Respondent, while married, engaged "in inappropriate sexual contact with [his] patient MS"; between August 1, 2011 and November 20, 2012, engaged in inappropriate sexual contact with [his] patient MB"; and between July 1 and November 30, 2011, made "inappropriate comments to Staff Sergeant EN." These actions were found to be conduct unbecoming an officer and a gentleman. The Order also states:

You are hereby severely reprimanded. Your repeated misconduct of engaging in sexual and inappropriate conduct with your patients and subordinates has brought dishonor and disgrace to your position as an officer in the United States Air Force. Your

misconduct is predatory in nature and completely unacceptable for any Airman. . . . Additionally, you had the audacity to make inappropriate comments and touch the buttocks of an enlisted Airman while she was your patient. The fact that you were married during these serious lapses in judgment makes your behavior even more repugnant. . . .

11. Respondent's appeal was denied. In a memo that appears to be dated July 7, 2015, an Air Force lieutenant general wrote that he or she had reviewed "the clinical adverse action taken against" Respondent and concurred with the Army Commander's "decision to deny him GMO clinical privileges based upon the evidence of professional misconduct" Ultimately, in a letter dated November 17, 2015, the Department of the Army notified the Federation of State Medical Boards of the action as follows:

On December 4, 2012, at San Antonio Military Medical Center, San Antonio, Texas, [Respondent] voluntarily surrendered his OB-GYN and Reproductive Endocrine and In-Vitro privileges in order to seek treatment for potentially recurring patient boundary issues. He was previously reported to the NPDB . . . for sexual misconduct with a patient. On June 13, 2013, [Respondent] requested General Medical Officer privileges. His request was denied, and the denial was upheld throughout due process proceedings, which concluded in April 2015. Rationale for the denial included that evidence confirmed a 9-year history of behavior and interactions incompatible with expectations of a military medical officer; the perceived benefits of his clinical expertise do not outweigh the risk that recurrence of his prior indiscretions pose to patient safety; and he does not exhibit appreciation for the extent of his boundary violations or the impact on patients.

12. In a Memorandum for All Reviewing Authorities dated February 26, 2015, Respondent stated that he accepted "the Article 15" Respondent wrote that he "made a series of poor decisions, rationalizations, and boundary violations," and that he was deeply sorry. As regards his relationship with MB and MS, he wrote that he has "deep remorse and pain for the offense he caused" the women and their families. He wrote:

Our relationships were strictly professional at their inception. Over time we noted that we had several things in common: we shared the same religion, similar hobbies, and family situations. By the time their medical care was over we had become friends. I justified these friendships as "safe," assuming that our common values would keep our friendships free of anything inappropriate. I do not mean that as an excuse, but as an example of the

justification and shortsightedness that I have since come to recognize and learned to avoid. It has been almost two and a half years since I had contact with either Mrs. S or Mrs. B but at the time I did my best to convey my most sincere regrets for the path our relationships took.

While expressing regret for harm he might have caused anyone in the Air Force, Respondent denied ever slapping Staff Sergeant EN or touching her buttocks in any way.

Respondent's Evidence

13. As regards the 2003 disciplinary proceedings, Respondent acknowledged sexual misconduct with a then-current patient. He was a resident at the time, and helped care for the patient for three to four months. Towards the end, their relationship "turned romantic for three to four weeks." When Respondent broke off the relationship, the patient reacted angrily. Respondent, who is a member of the Church of Jesus Christ of the Latter-day Saints (LDS), told both his wife and his bishop. There ensued a lengthy investigation and he cooperated. From that time until 2012, he experienced no problems maintaining professional relationships with his patients.

14. Patients MS and MB were treated at Respondent's clinic beginning in approximately 2011. Respondent felt he had much in common with both women, including that they were also members of the LDS church, had children with ages similar to his children, and similar interests. His family and MS's family became friends, who went on boating trips together. By this time, MS's treatment had concluded.

Respondent's relationship with MS gradually changed. They began to communicate directly by text or telephone, and discussed more personal matters. At the time, he thought of it as a friendship, but looking back he sees they had "quite an emotional relationship." At one point, MS proposed that they leave their spouses, but Respondent did not agree.

Respondent attempted to end the relationship, and MS asked him to meet with her one more time. As MS did not live in San Antonio, she would often obtain a room on the base that is similar to an apartment or large hotel room. Respondent did not want to be seen in public with MS, and so agreed to this arrangement. They spent an evening together eating and watching television. At MS's request, Respondent briefly kissed her good-bye. This was the only physical contact Respondent had with MS. Subsequently, MS attempted to resume the relationship, but Respondent declined. MS filed a complaint against Respondent with his employers eight months after he surrendered his privileges and while the MSEC was considering his application for reinstatement.

15. MB was a professional photographer, and Respondent hired her to photograph a family event. She was no longer his patient. They developed a friendship which Respondent described as "too familiar," and having "a romantic energy." Respondent eventually told MB

about his experience with the patient in 2003, and they stopped seeing each other. There was no sexual relationship between Respondent and MB.

16. Respondent was very concerned about his behavior with MS and MB, and decided to obtain professional help. He first saw a staff psychiatrist, and then enrolled in The Meadows, a facility in Arizona that treats addictions of all kinds, including sexual, and assists professionals who have experienced problems maintaining appropriate boundaries. He has also engaged in therapy since that treatment. Respondent has gained a great deal of insight into why he chose medicine as a career, and how to care for people without trying to be everything to them. Previously, Respondent believed that because he had good intentions and wanted to help people that he would not do anything wrong. He did not understand that boundaries are “not just about not having sex” and that maintaining emotional boundaries is just as important.

Respondent now believes that he is in a good position “to be a responsible and safe provider.” Previously, he had a gap in his training and did not see the power imbalance that is inherent in the doctor-patient relationship. He was honest with the mental health providers who assisted him and asked them if they thought medicine was a good fit for him. They agreed that it is and Respondent believes that now he is in position to be the best physician that he has ever been.

Expert opinion evidence

17. James W. Cockerill, M.D., a retired Air Force colonel, is board certified in psychiatry. He wrote a memorandum concerning Respondent dated February 24, 2015. At that time, Dr. Cockerill was a staff psychiatrist at Kenner Army Health Clinic in Fort Lee, Virginia. Previously he was Chief of Inpatient Psychiatric Services at San Antonio Military Medical Center.

18. Dr. Cockerill initially saw Respondent for symptoms of Attention Deficit Hyperactivity Disorder, and followed him for medication management. In November 2012 Respondent asked for therapy regarding “behavior that he found frustrating.” After an evaluation, Dr. Cockerill referred Respondent to The Meadows. After completion of that program, Dr. Cockerill followed Respondent in outpatient treatment. He wrote:

During that time he worked an aggressive therapy program including weekly therapy appointments, weekly group meetings, and marital therapy. At no time was there evidence that he withheld information. He was able to identify multiple components of his personality structure and made appropriate changes.

It is my opinion that [Respondent] has a clear understanding of the character flaws which existed prior to treatment and has made significant changes internally and external to prevent the

recurrence of those behaviors that were previously problematic. At no time has there been evidence that he denied responsibility for his actions and he has demonstrated remorse for them. Although I have not provided care for [Respondent] since September 2014, it was my opinion at the time his care was transitioned, that he had the capability to provide safe patient care.

19. Christopher B. Ticknor, M.D., is a psychiatrist in private practice in San Antonio. Dr. Ticknor evaluated Respondent at the request of his attorney. He authored a report dated September 4, 2013. Dr. Ticknor has treated hundreds of patients who suffer from addiction during his 27-year career, evaluated physicians concerning patient boundary issues, and testified as a forensic expert in cases that involved sexual assault and harassment.

Dr. Ticknor interviewed Respondent for two hours and reviewed documents including Dr. Cockerill's notes and assessments, and the records from Respondent's treatment at The Meadows. Dr. Ticknor opined that Respondent shows

no signs or characteristics of sexual perversion or sexual deviancy. Under no circumstances, could he be considered a sexual predator. [Respondent] has no signs or symptoms of a mental illness or of an organic brain disorder.

Further, Dr. Ticknor expressed his agreement with the treatment plan designed by Respondent and his psychiatrist at The Meadows, as follows:

- He would do no favors for patients which might lead to boundary crossings.
- He will not be alone with a female patient, and in fact, has consistently used chaperones in medical clinics. This prohibition will always extend to outside the medical setting as well.
- He will give out no personal information including his personal cell phone number or his email address to patients.
- He will continue to seek out and foster male friendships.
- [Respondent] will attend all male 12-step groups.
- He will continue to work on a healthy, emotionally intimate relationship with his wife.
- He will stop trying to be all things to all people.

Dr. Ticknor concluded that Respondent is not "at risk for repeat boundary violations." And he fully supported reinstatement of his privileges to fully practice.

20. In September 2014, Respondent transferred treatment to psychiatrist Timothy W. Sowin, M.D. In a memo dated February 17, 2016, Dr. Sowin wrote that as of that date, he had conducted 45 one-hour therapy sessions with Respondent. Dr. Sowin described the "center

point” of the treatment as to gain insight into the factors that pertained to his interactions with MS and MB. He noted that while Respondent “has consistently stated that neither of these relationships were sexual relationships, he has allowed that they were inappropriately personal, and thus improper, for a married physician to have had. . . .” Dr. Sowin opined that he and Respondent “have reached substantial insight as to the genesis and etiology of what has happened in relation to family of origin issues, issues within his marriage, issues related to prior over-involvement in professional activities, and issues involving spirituality and faith.” In part, Dr. Sowin wrote:

[I]t remains my medical opinion that if given the chance to return to the practice of medicine it is very unlikely that there would be a recurrence of a similar nature. Everything about his current demeanor says he realizes where he has made poor choices and pursued unacceptable actions that hurt others and ultimately caused him severe injury. He appears maximally motivated to make good use of a second chance if given one. [Respondent] does not suffer from a substance use disorder or from any psychiatric disorder that has potential to erode his judgement.

Finally, Dr. Sowin concludes that Respondent “clearly sees where he has made mistakes that have caused harm and has a strong desire to make amends and continue to contribute to the medical profession. I have confidence in his ability to do so.”

21. Jeffrey Titcher, Psy.D, is a psychotherapist in private practice in Malibu. In a letter dated January 16, 2017, he describes his work with Respondent in therapy, beginning in November 2016, for depression, identity issues, and bereavement over the loss of his marriage and professional status. Dr. Titcher’s background includes counseling of medical staff and teaching legal and ethical standards. He previously treated a sibling of Respondent’s, giving him insight into the family. And Dr. Titcher’s father was an obstetrician and gynecologist. Dr. Titcher references “two reports from prior treating therapists,” who are assumed to be Dr. Cockerill and Dr. Sowin.

Dr. Titcher opined that Respondent’s “behaviors arose from unmet dependency needs, along with a naïve misunderstanding of the general culture. This was also due to a lack of training about general considerations of transference in all medical settings.” Dr. Titcher noted that before engaging in therapy, Respondent “did not understand that emotional intimacy can be just as, or more, damaging to a patient and a clinician’s treatment of the patient . . . he did not [previously] fully understand and appreciate the concept of boundary violations. . . .” With treatment and education, Respondent now understands these issues and knows that his behavior was wrong.

Dr. Titcher took special note of the military setting within which Respondent’s behavior occurred, observing that these close settings can make it difficult to maintain appropriate boundaries. In addition, the women were members of his church and close to his family. Dr.

Titcher and Respondent discussed how these factors and Respondent's "people pleasing persona, need for validation and his naïveté concerning the difference between flirtation and affability, led to his professional and personal downfall."

In conclusion, Dr. Titcher opined that based on the insight and understanding that Respondent has gained, if allowed to practice in California, he would "be a safe and conscientious clinician, who will benefit its citizens who are in need of reproductive care."

LEGAL CONCLUSIONS

1. Business and Professions Code¹ section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

Section 2305 requires both an action elsewhere against a physician's license and that the action be based on conduct that would have been grounds for discipline, if it occurred in California. The Air Force, an agency of the federal government restricted Respondent's authority to practice medicine by denying his application to reinstate his privileges. And although the record is confusing, the basis for the denial would have qualified as unprofessional conduct in California. As set forth in Finding 10, a Record of Non-judicial Punishment Proceedings concluded that Respondent "engaged in sexual and inappropriately familiar conduct" with a patient. Respondent was also found to have slapped a co-worker on the buttocks. The record does not support the characterizations of Respondent's conduct as predatory or repugnant. And Respondent has consistently denied that his interactions were with current, as opposed to former, patients. Nonetheless, cause for discipline was established under section 2305.

2. Section 141, subdivision (a), provides:

For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of

¹ All statutory references are to the Business and Professions Code.

the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

Section 141 has no requirement save the fact of discipline by another government entity based on a substantially related act. Sexual and inappropriately familiar conduct with a patient is substantially related to the practice of medicine. Accordingly, cause for discipline was established under section 141, subdivision (a).

3. As cause for discipline was established, it remains to decide what discipline to impose. Complainant argues that the evidence supports revocation of Respondent's certificate. Respondent requests a term of probation with any terms and conditions; Respondent's request is persuasive.

4. In this factually dense and confusing case, it is clear that Respondent has struggled for years with issues related to appropriate professional boundaries. Many years after committing a very clear act of misconduct early in his career, followed by reprimands from both his military employer and the Board, Respondent became aware that he had two other relationships that might be headed down an inappropriate path. At the time, he took the extraordinary step of self-reporting his conduct and concerns, voluntarily relinquishing his privileges to practice in the military, and engaging in an intensive, inpatient program at an addiction treatment center. Following treatment, and alongside a continuing commitment to individual therapy, he applied for reinstatement of his privileges. Following a lengthy process, he was denied reinstatement in spite of strong recommendations by his treating psychiatrists. His military career effectively finished, he resigned from the Air Force.

Respondent has engaged in years of therapy and soul-searching to understand why, despite his faith tradition and medical training and education he developed personal relationships with women other than his wife. The Board's charge is to support the rehabilitation of physicians and return them to practice when appropriate; not to punish them. There has been no underlying mental illness identified that would interfere with the insight Respondent has developed and his commitment to change. Two evaluators, a psychiatrist and a psychologist, bring to four the total of specialists who have opined he can safely practice medicine. The evidence supports the conclusion that there is minimal risk to the public by Respondent's practice in California. Out of an abundance of caution, his certificate will be placed on probation for three years under standard terms, including completion of a professionalism course and a professional boundaries program. Additionally, a third-party chaperone will be required to be present while Respondent is consulting, examining or treating female patients.

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ORDER

Physician's and Surgeon's Certificate No. A76036, issued to Jeremy Alan King, M.D., is revoked. However, revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

1. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of California Code of Regulations, title 16, section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program approved in advance by the Board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum a 24-hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall evaluate Respondent at the end of the training and

the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with program recommendations. At the completion of the program, Respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not Respondent successfully completed the Program.

A professional boundaries course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee ad the course been take after the effective date of this Decision.

The Program's determination whether or not Respondent successfully completed the Program shall be binding.

Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

3. Third-Party Chaperone

During probation, respondent shall have a third-party chaperone present while consulting, examining or treating female patients. Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third-party chaperone.

If respondent fails to obtain approval of a third-party chaperone within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine

within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility.

Each third-party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third-party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third-party chaperone.

Respondent shall maintain a log of all patients seen for whom a third-party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third-party chaperone solely because that person provided information as required to the Board or its designee.

If the third-party chaperone resigns or is no longer available, respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third-party chaperone. If respondent fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or unavailability of the chaperone, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

4. Notification

Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

5. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

6. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

7. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2012, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

8. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

9. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in sections 2051 and 2052 of the Business and Professions Code for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

10. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

11. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

12. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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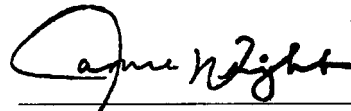
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13. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

The Decision shall become effective at 5:00 p.m. on August 25, 2017.

IT IS SO ORDERED this 26th day of July 2017.

A handwritten signature in black ink, appearing to read "Jamie Wright", is written over a horizontal line.

Jamie Wright, J.D., Chair
Panel A
Medical Board of California

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of Accusation Against:)

JEREMY ALAN KING, M.D.)

Physician's & Surgeon's)
Certificate No: A 76036)

Respondent)

Case No.: 800-2013-000491

OAH No.: 2016110022

**ORDER OF NON-ADOPTION
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. A panel of the Medical Board of California (Board) will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit directed to the question of whether the proposed penalty should be modified. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact Diamond Court Reporters, 1107 2nd Street, #210 Sacramento, CA 95814. The telephone number is (916) 498-9288

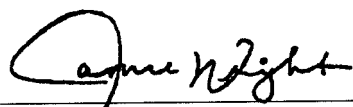
To order a copy of the exhibits, please submit a written request to this Board.

In addition, oral argument will only be scheduled if a party files a request for oral argument with the Board within 20 days from the date of this notice. If a timely request is filed, the Board will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of whether the proposed penalty should be modified. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel. The Board directs the parties attention to Title 16 of the California Code of Regulations, sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written argument.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Board. The mailing address of the Board is as follows:

MEDICAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831
(916) 263-8906
Attention: Richard M. Acosta

Date: May 4, 2017



Jamie Wright, JD, Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JEREMY ALAN KING, M.D.,

Physician's & Surgeon's Certificate
No. A76036

Respondent.

Case No. 800-2013-000491

OAH No. 2016110022

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on March 2, 2017, in Oakland, California.

Machaela M. Mingardi, Deputy Attorney General, represented Kimberly Kirchmeyer, Executive Director, Medical Board of California.

Stephen M. Boreman, Attorney at Law, represented Respondent Jeremy Alan King, M.D., who was present.

The record closed on March 2, 2017.

FACTUAL FINDINGS

1. Complainant Kimberly Kirchmeyer filed the Accusation in her official capacity as Executive Director of the Medical Board of California (Board).
2. On August 1, 2001, the Board issued Physician's and Surgeon's Certificate No. A76036 to Jeremy Alan King, M.D. (Respondent). Respondent's certificate will expire on December 31, 2018, unless renewed.
3. The standard of proof applied to determine the factual findings is clear and convincing evidence.

4. In 1999, Respondent received his medical degree from the Saint Louis University School of Medicine. In 2003 he completed an internship and residency in obstetrics and gynecology at David Grant Medical Center, Travis Air Force Base. In 2006 Respondent completed a postdoctoral fellowship in reproductive endocrinology and infertility at Johns Hopkins Medical Institution, Baltimore, Maryland.

From 2006 until 2013, Respondent was the Director of In Vitro Fertilization at San Antonio Military Medical Center, Fort Sam Houston, Texas. From 2013 to 2016, Respondent served as the Administrative Officer for the Chief of Medical Staff at Wilford Hall Medical Center, San Antonio, Texas.

Respondent is a specialist in reproductive endocrinology and infertility. He served in the Air Force for over 16 years and resigned in 2015.

Prior discipline

5. Effective April 28, 2006, the Board issued a Decision and Order publicly reprimanding Respondent's certificate. The Order was based on a stipulation wherein Respondent admitted cause for discipline based upon discipline issued by the Department of the Air Force. On December 22, 2004, the Air Force issued a Record of Non-judicial Punishment Proceedings under Article 15 of the Uniform Code of Military Justice (UCMJ) severely reprimanding Respondent. The Record states that Respondent "at or near Travis Air Force Base, California, between on or about 1 January 2003 and on or about 31 March 2003, willfully and wrongfully [had] inappropriate sexual contact with Mrs. [D.B.], who was [Respondent's] patient, which conduct was unbecoming an officer and a gentleman." The Order also states:

In mitigation, Respondent is a well-trained and knowledgeable physician with no history of discipline. He acknowledges that [his] conduct . . . was unprofessional and that he exercised poor judgment. Respondent has accepted full responsibility for the conduct which led to the disciplinary action of the Department of the Air Force. He has undergone counseling and has taken steps in his professional practice to assure the maintenance of professional boundaries.

Recent Air Force/Army discipline

6. On December 4, 2012, Respondent voluntarily relinquished his privileges at the San Antonio Military Medical Center. He enrolled in The Meadows, a residential treatment center in Arizona, and underwent treatment centered on professional boundary issues. Sometime in May or June 2013, Respondent applied for the reinstatement of his privileges.

7. The Brooke Army Medical Center (BAMC) Medical Executive Staff Committee (MSEC) convened several meetings beginning in June 2013 during which Respondent's

application was discussed at length. In evidence are meeting minutes that contain extensive notes taken at the meetings that are heavily redacted, somewhat difficult to follow, and contain references to military discipline procedures for which no explanation was provided. Nonetheless, the following information was obtained from the records provided.

8. On July 11, 2013, the MSEC discussed its options and voted unanimously to restore General Medical Officer (GMO) privileges to Respondent with restrictions. The MSEC felt that it was too early to allow Respondent to return to practice in gynecology. But this decision was short-lived. On July 17, 2013, the MSEC voted nine to five to deny restoration of any privileges.

9. On September 4, 2013, another MSEC meeting was convened. A colonel advised that the MSEC had been “assembled to consider documentary evidence and witness testimony relating to” whether Respondent’s request for GMO privileges would “be reconsidered for approval.” There is no indication that the speakers testified under oath. The speakers were identified as physicians and psychiatrists, but their names are redacted. The meeting minutes are 27 pages long and contain summaries of what was said and discussed. It is noted that the members have been provided a hearing packet that contains the documentary evidence, but no descriptions of its contents. The physicians who spoke recommended return to practice and opined that Respondent did not pose a measureable risk to patients. Nonetheless, the MSEC voted 14 to 5 to uphold the previous denial.

10. On February 23, 2015, the Air Force issued a second Record of Non-judicial Punishment Proceedings against Respondent. The Record states that on July 24, 2011, Respondent “unlawfully slap[ped] Staff Sergeant EN on the buttocks with [his] hand.” Also, between December 1, 2009, and November 30, 2012, Respondent, while married, engaged “in inappropriate sexual contact with [his] patient MS”; between August 1, 2011 and November 20, 2012, engaged in inappropriate sexual contact with [his] patient MB”; and between July 1 and November 30, 2011, made “inappropriate comments to Staff Sergeant EN.” These actions were found to be conduct unbecoming an officer and a gentleman. The Order also states:

You are hereby severely reprimanded. Your repeated misconduct of engaging in sexual and inappropriate conduct with your patients and subordinates has brought dishonor and disgrace to your position as an officer in the United States Air Force. Your misconduct is predatory in nature and completely unacceptable for any Airman. . . . Additionally, you had the audacity to make inappropriate comments and touch the buttocks of an enlisted Airman while she was your patient. The fact that you were married during these serious lapses in judgment makes your behavior even more repugnant. . . .

11. Respondent’s appeal was denied. In a memo that appears to be dated July 7, 2015, an Air Force lieutenant general wrote that he or she had reviewed “the clinical adverse

action taken against” Respondent and concurred with the Army Commander’s “decision to deny him GMO clinical privileges based upon the evidence of professional misconduct” Ultimately, in a letter dated November 17, 2015, the Department of the Army notified the Federation of State Medical Boards of the action as follows:

On December 4, 2012, at San Antonio Military Medical Center, San Antonio, Texas, [Respondent] voluntarily surrendered his OB-GYN and Reproductive Endocrine and In-Vitro privileges in order to seek treatment for potentially recurring patient boundary issues. He was previously reported to the NPDB . . . for sexual misconduct with a patient. On June 13, 2013, [Respondent] requested General Medical Officer privileges. His request was denied, and the denial was upheld throughout due process proceedings, which concluded in April 2015. Rationale for the denial included that evidence confirmed a 9-year history of behavior and interactions incompatible with expectations of a military medical officer; the perceived benefits of his clinical expertise do not outweigh the risk that recurrence of his prior indiscretions pose to patient safety; and he does not exhibit appreciation for the extent of his boundary violations or the impact on patients.

12. In a Memorandum for All Reviewing Authorities dated February 26, 2015, Respondent stated that he accepted “the Article 15” Respondent wrote that he “made a series of poor decisions, rationalizations, and boundary violations,” and that he was deeply sorry. As regards his relationship with MB and MS, he wrote that he has “deep remorse and pain for the offense he caused” the women and their families. He wrote:

Our relationships were strictly professional at their inception. Over time we noted that we had several things in common: we shared the same religion, similar hobbies, and family situations. By the time their medical care was over we had become friends. I justified these friendships as “safe,” assuming that our common values would keep our friendships free of anything inappropriate. I do not mean that as an excuse, but as an example of the justification and shortsightedness that I have since come to recognize and learned to avoid. It has been almost two and a half years since I had contact with either Mrs. S or Mrs. B but at the time I did my best to convey my most sincere regrets for the path our relationships took.

While expressing regret for harm he might have caused anyone in the Air Force, Respondent denied ever slapping Staff Sergeant EN or touching her buttocks in any way.

Respondent's Evidence

13. As regards the 2003 disciplinary proceedings, Respondent acknowledged sexual misconduct with a then-current patient. He was a resident at the time, and helped care for the patient for three to four months. Towards the end, their relationship “turned romantic for three to four weeks.” When Respondent broke off the relationship, the patient reacted angrily. Respondent, who is a member of the Church of Jesus Christ of the Latter-day Saints (LDS), told both his wife and his bishop. There ensued a lengthy investigation and he cooperated. From that time until 2012, he experienced no problems maintaining professional relationships with his patients.

14. Patients MS and MB were treated at Respondent's clinic beginning in approximately 2011. Respondent felt he had much in common with both women, including that they were also members of the LDS church, had children with ages similar to his children, and similar interests. His family and MS's family became friends, who went on boating trips together. By this time, MS's treatment had concluded.

Respondent's relationship with MS gradually changed. They began to communicate directly by text or telephone, and discussed more personal matters. At the time, he thought of it as a friendship, but looking back he sees they had “quite an emotional relationship.” At one point, MS proposed that they leave their spouses, but Respondent did not agree.

Respondent attempted to end the relationship, and MS asked him to meet with her one more time. As MS did not live in San Antonio, she would often obtain a room on the base that is similar to an apartment or large hotel room. Respondent did not want to be seen in public with MS, and so agreed to this arrangement. They spent an evening together eating and watching television. At MS's request, Respondent briefly kissed her good-by. This was the only physical contact Respondent had with MS. Subsequently, MS attempted to resume the relationship, but Respondent declined. MS filed a complaint against Respondent with his employers eight months after he surrendered his privileges and while the MSEC was considering his application for reinstatement.

15. MB was a professional photographer, and Respondent hired her to photograph a family event. She was no longer his patient. They developed a friendship which Respondent described as “too familiar,” and having “a romantic energy.” Respondent eventually told MB about his experience with the patient in 2003, and they stopped seeing each other. There was no sexual relationship between Respondent and MB.

16. Respondent was very concerned about his behavior with MS and MB, and decided to obtain professional help. He first saw a staff psychiatrist, and then enrolled in The Meadows, a facility in Arizona that treats addictions of all kinds, including sexual, and assists professionals who have experienced problems maintaining appropriate boundaries. He has also engaged in therapy since that treatment. Respondent has gained a great deal of insight into why he chose medicine as a career, and how to care for people without trying to be everything to

them. Previously, Respondent believed that because he had good intentions and wanted to help people that he would not do anything wrong. He did not understand that boundaries are “not just about not having sex” and that maintaining emotional boundaries is just as important.

Respondent now believes that he is in a good position “to be a responsible and safe provider.” Previously, he had a gap in his training and did not see the power imbalance that is inherent in the doctor-patient relationship. He was honest with the mental health providers who assisted him and asked them if they thought medicine was a good fit for him. They agreed that it is and Respondent believes that now he is in position to be the best physician that he has ever been.

Expert opinion evidence

17. James W. Cockerill, M.D., a retired Air Force colonel, is board certified in psychiatry. He wrote a memorandum concerning Respondent dated February 24, 2015. At that time, Dr. Cockerill was a staff psychiatrist at Kenner Army Health Clinic in Fort Lee, Virginia. Previously he was Chief of Inpatient Psychiatric Services at San Antonio Military Medical Center.

18. Dr. Cockerill initially saw Respondent for symptoms of Attention Deficit Hyperactivity Disorder, and followed him for medication management. In November 2012 Respondent asked for therapy regarding “behavior that he found frustrating.” After an evaluation, Dr. Cockerill referred Respondent to The Meadows. After completion of that program, Dr. Cockerill followed Respondent in outpatient treatment. He wrote:

During that time he worked an aggressive therapy program including weekly therapy appointments, weekly group meetings, and marital therapy. At no time was there evidence that he withheld information. He was able to identify multiple components of his personality structure and made appropriate changes.

It is my opinion that [Respondent] has a clear understanding of the character flaws which existed prior to treatment and has made significant changes internally and external to prevent the recurrence of those behaviors that were previously problematic. At no time has there been evidence that he denied responsibility for his actions and he has demonstrated remorse for them. Although I have not provided care for [Respondent] since September 2014, it was my opinion at the time his care was transitioned, that he had the capability to provide safe patient care.

19. Christopher B. Ticknor, M.D., is a psychiatrist in private practice in San Antonio. Dr. Ticknor evaluated Respondent at the request of his attorney. He authored a report dated

September 4, 2013. Dr. Ticknor has treated hundreds of patients who suffer from addiction during his 27-year career, evaluated physicians concerning patient boundary issues, and testified as a forensic expert in cases that involved sexual assault and harassment.

Dr. Ticknor interviewed Respondent for two hours and reviewed documents including Dr. Cockerill's notes and assessments, and the records from Respondent's treatment at The Meadows. Dr. Ticknor opined that Respondent shows

no signs or characteristics of sexual perversion or sexual deviancy.
Under no circumstances, could he be considered a sexual predator.
[Respondent] has no signs or symptoms of a mental illness or of
an organic brain disorder.

Further, Dr. Ticknor expressed his agreement with the treatment plan designed by Respondent and his psychiatrist at The Meadows, as follows:

- He would do no favors for patients which might lead to boundary crossings.
- He will not be alone with a female patient, and in fact, has consistently used chaperones in medical clinics. This prohibition will always extend to outside the medical setting as well.
- He will give out no personal information including his personal cell phone number or his email address to patients.
- He will continue to seek out and foster male friendships.
- [Respondent] will attend all male 12-step groups.
- He will continue to work on a healthy, emotionally intimate relationship with his wife.
- He will stop trying to be all things to all people.

Dr. Ticknor concluded that Respondent is not "at risk for repeat boundary violations." And he fully supported reinstatement of his privileges to fully practice.

20. In September 2014, Respondent transferred treatment to psychiatrist Timothy W. Sowin, M.D. In a memo dated February 17, 2016, Dr. Sowin wrote that as of that date, he had conducted 45 one-hour therapy sessions with Respondent. Dr. Sowin described the "center point" of the treatment as to gain insight into the factors that pertained to his interactions with MS and MB. He noted that while Respondent "has consistently stated that neither of these relationships were sexual relationships, he has allowed that they were inappropriately personal, and thus improper, for a married physician to have had. . . ." Dr. Sowin opined that he and Respondent "have reached substantial insight as to the genesis and etiology of what has happened in relation to family of origin issues, issues within his marriage, issues related to prior over-involvement in professional activities, and issues involving spirituality and faith." In part, Dr. Sowin wrote:

[I]t remains my medical opinion that if given the chance to return to the practice of medicine it is very unlikely that there would be a recurrence of a similar nature. Everything about his current demeanor says he realizes where he has made poor choices and pursued unacceptable actions that hurt others and ultimately caused him severe injury. He appears maximally motivated to make good use of a second chance if given one. [Respondent] does not suffer from a substance use disorder or from any psychiatric disorder that has potential to erode his judgement.

Finally, Dr. Sowin concludes that Respondent “clearly sees where he has made mistakes that have caused harm and has a strong desire to make amends and continue to contribute to the medical profession. I have confidence in his ability to do so.”

21. Jeffrey Titcher, Psy.D, is a psychotherapist in private practice in Malibu. In a letter dated January 16, 2017, he describes his work with Respondent in therapy, beginning in November 2016, for depression, identity issues, and bereavement over the loss of his marriage and professional status. Dr. Titcher’s background includes counseling of medical staff and teaching legal and ethical standards. He previously treated a sibling of Respondent’s, giving him insight into the family. And Dr. Titcher’s father was an obstetrician and gynecologist. Dr. Titcher references “two reports from prior treating therapists,” who are assumed to be Dr. Cockerill and Dr. Sowin.

Dr. Titcher opined that Respondent’s “behaviors arose from unmet dependency needs, along with a naïve misunderstanding of the general culture. This was also due to a lack of training about general considerations of transference in all medical settings.” Dr. Titcher noted that before engaging in therapy, Respondent “did not understand that emotional intimacy can be just as, or more, damaging to a patient and a clinician’s treatment of the patient . . . he did not [previously] fully understand and appreciate the concept of boundary violations. . . .” With treatment and education, Respondent now understands these issues and knows that his behavior was wrong.

Dr. Titcher took special note of the military setting within which Respondent’s behavior occurred, observing that these close settings can make it difficult to maintain appropriate boundaries. In addition, the women were members of his church and close to his family. Dr. Titcher and Respondent discussed how these factors and Respondent’s “people pleasing persona, need for validation and his naïveté concerning the difference between flirtation and affability, led to his professional and personal downfall.”

In conclusion, Dr. Titcher opined that based on the insight and understanding that Respondent has gained, if allowed to practice in California, he would “be a safe and conscientious clinician, who will benefit its citizens who are in need of reproductive care.”

LEGAL CONCLUSIONS

1. Business and Professions Code¹ section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

Section 2305 requires both an action elsewhere against a physician's license and that the action be based on conduct that would have been grounds for discipline, if it occurred in California. The Air Force, an agency of the federal government restricted Respondent's authority to practice medicine by denying his application to reinstate his privileges. And although the record is confusing, the basis for the denial would have qualified as unprofessional conduct in California. As set forth in Finding 10, a Record of Non-judicial Punishment Proceedings concluded that Respondent "engaged in sexual and inappropriately familiar conduct" with a patient. Respondent was also found to have slapped a co-worker on the buttocks. The record does not support the characterizations of Respondent's conduct as predatory or repugnant. And Respondent has consistently denied that his interactions were with current, as opposed to former, patients. Nonetheless, cause for discipline was established under section 2305.

2. Section 141, subdivision (a), provides:

For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

Section 141 has no requirement save the fact of discipline by another government entity based on a substantially related act. Sexual and inappropriately familiar conduct with a patient is substantially related to the practice of medicine. Accordingly, cause for discipline was established under section 141, subdivision (a).

¹ All statutory references are to the Business and Professions Code.

3. As cause for discipline was established, it remains to decide what discipline to impose. Complainant argues that the evidence supports revocation of Respondent's certificate. Respondent requests a term of probation with any terms and conditions; Respondent's request is persuasive.

4. In this factually dense and confusing case, it is clear that Respondent has struggled for years with issues related to appropriate professional boundaries. Many years after committing a very clear act of misconduct early in his career, followed by reprimands from both his military employer and the Board, Respondent became aware that he had two other relationships that might be headed down an inappropriate path. At the time, he took the extraordinary step of self-reporting his conduct and concerns, voluntarily relinquishing his privileges to practice in the military, and engaging in an intensive, inpatient program at an addiction treatment center. Following treatment, and alongside a continuing commitment to individual therapy, he applied for reinstatement of his privileges. Following a lengthy process, he was denied reinstatement in spite of strong recommendations by his treating psychiatrists. His military career effectively finished, he resigned from the Air Force.

Respondent has engaged in years of therapy and soul-searching to understand why, despite his faith tradition and medical training and education he developed personal relationships with women other than his wife. The Board's charge is to support the rehabilitation of physicians and return them to practice when appropriate; not to punish them. There has been no underlying mental illness identified that would interfere with the insight Respondent has developed and his commitment to change. Two evaluators, a psychiatrist and a psychologist, bring to four the total of specialists who have opined he can safely practice medicine. The evidence supports the conclusion that there is minimal risk to the public by Respondent's practice in California. Out of an abundance of caution, his certificate will be placed on probation for three years under standard terms, including completion of a professionalism course and a professional boundaries program.

ORDER

Physician's and Surgeon's Certificate No. A76036, issued to Jeremy Alan King, M.D., is revoked. However, revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

1. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of California Code of Regulations, title 16, section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent.

Respondent shall successfully complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program approved in advance by the Board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum a 24-hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall evaluate Respondent at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with program recommendations. At the completion of the program, Respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at Respondent's expense and

shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not Respondent successfully completed the Program.

A professional boundaries course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee and the course been taken after the effective date of this Decision.

The Program's determination whether or not Respondent successfully completed the Program shall be binding.

Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

3. Notification

Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

4. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

5. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

6. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2012, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

7. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

8. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and

within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in sections 2051 and 2052 of the Business and Professions Code for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

9. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

10. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.


11. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

12. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATED: March 28, 2017

DocuSigned by:

337756938432417
MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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Telephone: (415) 703-5696
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 24, 2016
BY: *[Signature]* ANALYST

7
8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2013-000491

13 **JEREMY ALAN KING, M.D.**
14 P.O. Box 591502
San Antonio, TX 78259-0124

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
No. A76036,

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On or about August 1, 2001, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A76036 to Jeremy Alan King, M.D. (Respondent). The Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2016, unless renewed.

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A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

C. Section 141 of the Code provides:

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

(Discipline, Restriction or Limitation of the Authority to Practice Medicine Imposed by An Agency of the Federal Government)

2

1 was discharged after five weeks with several diagnoses. On June 19, 2013, Respondent applied
2 for General Medical Officer privileges and was denied. After lengthy due process, in April 2015,
3 the denial of Respondent's request for privileges was upheld. The rationale for the denial
4 included evidence that confirmed a 9-year history of behavior and interactions incompatible with
5 expectations of a military medical officer, the fact that the perceived benefits of Respondent's
6 clinical expertise did not outweigh the risk that recurrence of his prior indiscretions posed to
7 patient safety, and the fact that Respondent did not exhibit appreciation of the extent of his
8 boundary violations or the impact on his patients. A copy of the relevant confidential Department
9 of the Army documents will be provided to the Court upon request.

10 5. Respondent's conduct and the action of the Department of the Army as set forth in
11 paragraph 4, above, constitutes cause for discipline pursuant to sections 2305 and/or 141 of the
12 Code.

13 PRIOR DISCIPLINE

14 6. On January 5, 2006, the Board filed an Accusation in case number 12-2004-156127
15 against Respondent for violating Code section 141. As the Accusation in that matter details, on
16 or about December 22, 2004, the Department of the Air Force issued a non-judicial punishment
17 against Respondent, wherein he was reprimanded and ordered to forfeit \$2,000 pay per month for
18 two months. This non-judicial punishment was based on an alleged violation of UCMJ, Article
19 133, that Respondent "at or near Travis Air Force Base, California, between on or about 1
20 January 2003 and on or about 31 March 2003, willfully and wrongfully [had] inappropriate sexual
21 contact with Mrs. [D.B.] who was [Respondent's] patient, which conduct was unbecoming an
22 officer and gentlemen." On May 30, 2006, the Board issued a Public Reprimand against
23 Respondent.

24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Medical Board of California issue a decision:

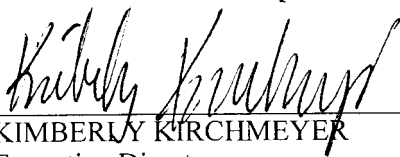
27 1. Revoking or suspending Physician's and Surgeon's Certificate Number A76036,
28 issued to Jeremy Alan King, M.D.;

1 2. Revoking, suspending or denying approval of Jeremy Alan King, M.D.'s authority to
2 supervise physician assistants, pursuant to section 3527 of the Code;

3 3. Ordering Jeremy Alan King, M.D., if placed on probation, to pay the Board the costs
4 of probation monitoring; and

5 4. Taking such other and further action as deemed necessary and proper.
6

7
8 DATED: May 24, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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